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NEW LEASE ON LIFE FOR SALVADORANS AND GUATEMALANS IN THE UNITED STATES

After a decade of battles waged in Congress and the courts, several important victories for Salvadoran and Guatemalan asylum seekers were won in late 1990; the early weeks of 1991 have been devoted to implementing new procedures on their behalf.

The tide began to turn in July, when the Immigration and Naturalization Service (INS) came forward with final asylum regulations that created a corps of specialized asylum adjudicators assigned exclusively to determine asylum claims (see Refugee Reports, Vol. XI, Nos. 3 and 7). The new asylum system, which began in October and will be fully in place by April, promises better trained asylum adjudicators who, answerable to the INS central office rather than the local district director, should demonstrate more nationwide consistency in approach.

The next step took place on November 29, when President Bush signed the Immigration Act of 1990 into law (see Refugee Reports, Vol. XI, Nos. 10 and 11). That reform of legal immigration included a provision for "temporary protected status" (TPS), filling a gap in the Refugee Act of 1980, which had recognized refugees fleeing persecution, but failed to provide a mechanism for protecting persons displaced by war and generalized civil strife. The Immigration Act also specifically mandated that TPS be invoked on behalf of Salvadorans for an 18-month period, starting at the beginning of 1990.

Following on the heels of this legislative victory, the INS agreed to settle a class-action suit challenging bias against Salvadorans and Guatemalans in the asylum process. The suit, American Baptist Churches v. Thornburgh (ABC), filed in May 1985, challenged some 150,000 asylum denials for Salvadorans and Guatemalans since 1980 (see Refugee Reports, Vol. X, No.10).

The settlement bars deportation for all Salvadorans present in the United States as of September 19, 1990 and all Guatemalans here as of October 1, 1990, until they have had a completely new (*de novo*) adjudication of their asylum claims. Persons convicted of aggravated felonies are ineligible.

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Any one of these steps taken alone would have been unlikely to assuage fears within the Salvadoran and Guatemalan communities that it would be safe to come forward to apply to the INS for benefits. But taken together, these policy changes have led the local projects who work with Central Americans to make an all-out effort to encourage them to apply.

Guillermo Rodezno, the executive director of El Rescate in Los Angeles, said, "When TPS came out, we thought we would only register our clients who had already applied for political asylum. We were not going to encourage those who were not already known to the government to apply." Rodezno said that the risks were too great under TPS alone, since by registering for temporary protection, Salvadorans would have put themselves in a position to be placed in deporta-

ORANTES-HERNANDEZ UPHELD

The Orantes-Hernandes v. Thornburgh suit, which alleged that Immigration and Naturalization Service (INS) officials prevented Salvadorans from exercising their right to apply for asylum and interfered with their ability to obtain legal counsel, was upheld by a panel of the U.S. Court of Appeals for the Ninth Circuit in a November 21 decision. The decision upholds the injunction requiring the INS to notify Salvadoran detainees of their right to apply for asylum and to be represented by counsel (see Refugee Reports, Vol. IX, No. 5). Refugee Reports has learned that the government is neither petitioning for a rehearing nor for review before the Supreme Court. Below are excerpts from the unanimous Ninth Circuit panel decision, written by Judge Mary M. Schroeder:

The district court found that prior to the issuance of the preliminary injunction, INS agents coerced Salvadorans who had not expressed a desire to return to El Salvador to sign Form I-274A for voluntary departure. The evidence supporting this finding is overwhelming.... Numerous class members testified of being forced or tricked into signing for voluntary departure.... Other class members testified about being told that they must apply for voluntary departure even though they expressed fears about returning to El Salvador.... It is significant that the government offered no contradictory evidence to suggest that these events did not occur.... Border Patrol Agent Michael Singh....would fill out an asylum application only if the alien used the words, "I want political asylum." If they did not use these words, the general policy was to continue processing for deportation. Even if the alien said that he feared persecution on return to his country, processing continued, and no asylum form would be proferred.... Form I-274....does not say anything about the right to apply for asylum. The words "asylum" or "refugee" do not appear on it. Aliens receiving that form would reasonably perceive their options to be limited to either voluntary departure or deportation.... Maria Santos Madril, who did not know how to read or write, was given Form I-274 after being detained for several days. The agent took her hand and said, "Sign here." When Madril responded that she could not sign for her deportation, the INS agent grabbed her hand and physically forced her to make an X as her signature on Form I-274.... Charles Warden, a Border Patrol Agent for more than 17 years, testified that he had never seen an asylum application. Warden did not recall getting instructions regarding providing aliens with asylum applications and received instructions regarding advising aliens of asylum only due to the Orantes injunction.... [T]he record consisting of evidence from both members of the plaintiff class and INS agents during the post-injunction period fully supports the district court's findings that there was continued INS interference with plaintiff members' exercise of their right to apply for political asylum....

Some of the district court's most detailed findings faulted the government for the nature of the legal services lists provided to Salvadorans, pointing out that many did not contain accurate telephone numbers, and that many of the offices were not located in the vicinity where the alien was being detained.... These findings show that the faulty lists were but the first of numerous obstacles, the cumulative effect of which was to prevent aliens from contacting counsel and receiving any legal advice. Most of the findings are undisputed.

tion proceedings as soon as the 18-month protected status period expired.

"ABC has changed the whole prospect of what will happen at the end of the 18-month period," said Rodezno. "That made a big difference to us." Rodezno said that many of El Rescate's clients have good asylum claims, and others may now be able to find other legal avenues of immigration relief. "We feel more comfortable now in encouraging people to apply."

Those efforts include creating public service announcements, fliers, and posters, as well as holding public informational briefings--*charlas*--at the close of religious services and other community gatherings.

Although "Orders to Show Cause" (OSCs)--which normally initiate the deportation process--will be issued at the close of TPS, under the terms of the ABC settlement, those proceedings will be administratively closed pending the adjudication of the asylum claim before the new corps of asylum officers.

Building Trust Part of the new sense of confidence among Central Americans and service providers stems from the hope that the INS has grown weary of a decade of criticism for biased adjudication and is now ready for a less adversarial relationship.

Addressing a gathering at the Carnegie Endowment for International Peace on January 25, Paul Virtue, Acting General Counsel of the INS, said that after the President signed the Immigration Act and it became clear that Salvadorans were not going to be deported, "there was little will to do battle."

But the groundwork for a more cordial atmosphere was laid even earlier with the final asylum regulations. Coming about as they did, following wide protests about earlier proposed regulations (see Refugee Reports, Vol. VIII, No. 9 and Vol. XI, No. 3), the final regulations were greeted with a collective sigh of relief from refugee advocacy groups (see Refugee Reports, Vol. XI, No. 7). The hiring of new asylum officers, a comprehensive training program for them, and the establishment of a documentation center open to information on country conditions from nongovernmental sources were all important confidence-building measures.

The regulatory battle had not been one over abstract principles. Charges of bias and coercion were deeply felt and well documented (see box on the Orantes suit). Since 1983, asylum approval rates for Salvadorans and Guatemalans filing with INS district directors have stood at 2.6 and 1.8 percent respectively (see Refugee Reports, Vol. XI, No. 12).

The ABC settlement specifically referenced the new law, as well as the new asylum regulations. It also directly addressed the charges of INS bias by requiring the Service to agree to affirm that "foreign policy and border enforcement considerations...the fact that an individual is from a country whose government the United States supports...[and] whether or not the United States Government agrees with the political or ideological beliefs of the individual...[are] not relevant to the determination of whether an applicant has a well-founded fear of persecution."

Fears Remain Nevertheless, trust has not been immediate or automatic. Salvadorans have a great fear of applying for political asylum, said Kenneth Lederer, executive director of the Central American Refugee Center (CARECEN) in Hempstead, New York, because they think that by doing so, they will put their lives in danger back home. "They are afraid that the U.S. government will give the information on their asylum applications to the Salvadoran government." For this reason, said Lederer, many are refusing to register for TPS because they fear the consequences of eventually having to apply for asylum.

Lederer said that as far as he is concerned, the relationship with the INS is "still adversarial all the way." He said, "We still have to fight every step of the way for fair adjudication and reasonable fees." He particularly faulted the INS for placing the burden of outreach on the voluntary agencies. "There has to be positive outreach to the community directly from the INS" if the TPS program is to succeed, he said.

Edwin Rodriguez, the executive director of the CARECEN office in San Francisco and himself a Salvadoran, takes a more positive view. "So far in the first weeks of the program, the collaboration with the INS has been very good," he said. "We discussed the types of documents they were requiring [to establish eligibility for TPS], and

they said they had made a mistake and would make it easier."

Deborah Anker, a lecturer at Harvard Law School and chair of the American Immigration Lawyers Association's Refugee and Asylum Committee, notes an improved level of cooperation on asylum issues generally. "From what I've seen, the INS has acted openly and in good faith." She said that the INS has worked very cooperatively with nongovernmental organizations, and that, in turn, "voluntary agencies and human rights groups have spent hundreds of hours reviewing training materials and have shown a willingness to work extensively with the government for this program to be as good as it can be."

Nevertheless, Anker said that her group would keep a close eye on hiring decisions for the new asylum officers, on their training, and on the documentation center.

Fees: The Most Contentious Stumbling Block to TPS The issue most likely to dash the good will engendered by recent changes is the registration fees for the TPS program. Each individual Salvadoran who applies for the program will be required to pay $110 for every six months of protected status (a $75 TPS application fee and $35 for the employment document). Assuming the 18-month period is not extended--which remains within the discretion of the Attorney General--this means that a family of five would pay $1,650.00 to benefit from the program. Very few in the Salvadoran community have that kind of money. The fees could become even higher, as sources have indicated that the INS has recommended a $25 fee hike for work authorization.

Rodezno said that about 100 to 200 Salvadorans come to the El Rescate offices every day for information about TPS. Of that, he said that about 70 to 75 express a willingness to register. But when they learn of the registration fees, only 15 people, on average, are willing to register.

The relative few who do apply, say Rodezno and other service providers throughout the country, are working-age single men or one breadwinner for an entire family, leaving dependents unprotected.

As of January 25, 4,000 TPS applications had been received by the INS. But service providers have already seen a falling off in the past week in the number of Salvadorans coming forward as news has spread through the Salvadoran community about the fee requirements. And the fee issue is starting to sour the relationship between the INS and voluntary agencies.

"The good intentions of this legislation are being undermined by the INS," said Rodezno. "A lot of people who would benefit won't register because of cumbersome bureaucracy that requires re-registration every six months and creates high costs."

Virtue said that many of the costs--such as FBI fingerprinting--are fixed and beyond the ability of the INS to control. He accounts for the registration payments by saying that the actual cost of initial registration is more than $75, so is therefore pro-rated over the 18-month period.

Calling the fees "heartbreaking," Frank Sharry, executive director of the National Immigration, Refugee, and Citizenship Forum, which has been coordinating TPS implementation among service agencies, suggested that a reduction in the first-round fee would serve to bring applicants forward initially so they could get work authorization and be better able to pay the re-registration fees. He also suggested a waiver for indigent applicants, a cap for families, and more efficient implementation to lower the cost of the program.

Virtue said that INS has a general waiver provision, which would apply for this program. But Sharry said that there are significant discrepancies among the districts in their willingness to waive fees. In Los Angeles, the INS office has categorically rejected waiving the fees, whereas in Baltimore, waivers have already been accepted.

Lucas Guttentag, director of the ACLU's National Immigrants' Rights Project, pointed out that Salvadorans who cannot afford to register for TPS would still be eligible to register for ABC, which is free of charge. Although a Salvadoran in this situation would lose the 18-months of protected status, he or she could not be deported and would be authorized to work until the completion of a *de novo* asylum adjudication.

Reaction to TPS Interim Regulations Focuses on Fees Virtue said that INS has already received comments on the fees in response to the publication of interim regulations on TPS in the

DEADLINES UNDER ABC SETTLEMENT

SALVADORANS-Must have been in United States as of September 19, 1990, and not be aggravated felons. Class members in detention are subject to much more rapid time limits.

CATEGORY	FIRST STEP	SECOND STEP
Salvadorans who apply for TPS between 1/1/91 and 6/30/91.	If found eligible for TPS and re-register, they will have TPS status through 6/30/92.	After 5/31/92 they will be sent a notice giving them 90 days to submit a new asylum application (they may proceed based on old one or can supplement up to time of interview).
	If given TPS but fail to re-register, they will be sent ABC form sometime after 1/1/92. Must return form within 90 days.	They will be sent a notice giving them 90 days within which to submit a new asylum application.
	If found ineligible for TPS, will be sent ABC form with the denial notice, giving 90 days to submit new asylum application.	
Salvadorans who do not apply for TPS but who are in pending deportation proceedings (immigration court, BIA, or federal court).	ABC notice will be mailed first class prior to 3/31/91. Form must be returned by 6/30/91.	Will subsequently be sent a notice to submit a new I-589 within 90 days (or can proceed on old application and supplement it).
Salvadorans who do not apply for TPS and who are not in pending deportation proceedings (never been in proceedings or under final deportation order).	Must submit between 1/1/91 and 6/30/91 an ABC form requesting an affirmative asylum adjudication.	Will subsequently be sent a notice to submit a new I-589 within 90 days (or can proceed on old application and supplement it).

GUATEMALANS-Must have been in United States as of October 1, 1990, and not be aggravated felons. Detained class members have more rapid time limits, but if they sign up for the settlement and are not charged with criminal conduct, they will be released.

Guatemalans in pending deportation proceedings (immigration court, BIA, or federal court).	ABC notice will be mailed first class between 7/1/91 and 9/30/91. Must return ABC form within 90 days.	Must submit a new asylum application within 180 days of the notice (or proceed on old application and supplement it).
Guatemalans not in pending deportation proceedings.	Must submit between 7/1/91 and 12/31/91 an ABC form requesting an affirmative asylum adjudication.	After submitting ABC form, must submit a new asylum application by 3/1/92 (or proceed on old application and supplement it).

Source: The National Immigration Law Center

January 7 Federal Register. "There has been a lot of interest in the fees," he said.

Sen. Dennis DeConcini (D-Ariz.), the Senate's leading proponent for Salvadoran safe haven, sent a letter to INS Commissioner Gene McNary, saying, "Registration for TPS was intended to be a simple, efficient, one-step process in which the registrants receive work authorization at the time of registration. In addition, the cost of registration and obtaining work permission was intended to be reasonable. The term 'reasonable fee' for Salvadorans was intended to be in line with Section 244A of the Immigration and Nationality Act which 'shall not exceed $50.' I would like to stress that it is my hope that the fee will be less than $50 and that a family cap is implemented."

DeConcini stressed that Congress intended the fee to be "as low as possible so that all TPS registrants who are eligible and wish to apply are able to do so."

In its comments on the regulations, the National Forum suggested that costs could be lowered if the INS would adopt a simpler process, namely, one-stop registration with a simplified renewal procedure.

No Magnet Effect; New Arrivals Again Being Detained and Deported TPS and ABC have clear cut-off dates, and those who arrive after that time are not eligible for protection from detention and deportation.

Although the fundamental reason for TPS and ABC relates to dangerous conditions in both countries, cut-off dates were established to prevent what is commonly referred to as "the magnet effect"--the notion that word will spread back to the homeland of an "amnesty", which will touch off a fresh influx of new arrivals. But, as yet, this does not appear to have happened.

"There has been no surge due to TPS/ABC," Jonathan Jones of Proyecto Libertad in Harlingen, Texas, on the Mexican border, told Refugee Reports. "The situation is the same, nothing remarkable."

In fact, the folks at Proyecto seem largely untouched by the changes that are riveting the attention of Central American assistance agencies in the rest of the country. For them, it's "business as usual."

"Nothing has changed," said Proyecto's director, Rogelio Nuñez. "On January 16, we had a population of 455 [at Port Isabel Service Processing Center--known as *"Corralon"*] which is about the normal number over the past ten years." Of that total, 232 were Salvadorans, 115 Honduran, 70 Guatemalan, and 38 Nicaraguan. Nuñez said there were also about 40 at the two facilities for unaccompanied minors and 80 to 90 at the San Benito family facility, in addition to about 100 undocumented Central Americans at Casa Romero.

The Proyecto staff still gives "Orantes presentations" [see box] every Tuesday and Friday. "Detention is still the main issue here," said Nuñez.

Virtue told Refugee Reports that Salvadorans who arrived after September 19 are not only being detained, but are being deported as well.

Travel for Affirmative Asylum Hearings--An Added Burden Although Proyecto Libertad has had minimal involvement with TPS, since most of their clients are new arrivals in deportation proceedings, other Texas-Mexico border projects are concerned about problems for affirmative asylum applicants.

Amy Coughenor, director of the Refugee Assistance Council in Laredo, Texas, said, "It is pretty ridiculous to have an asylum officer in Houston when people are coming across the border." She said that people wanting to apply for asylum affirmatively "will get stopped at checkpoints between here and Houston."

Coughenor is referring to the new asylum procedure, under which the new corps of asylum officers will be located only in Newark, N.J., Arlington, Va., Miami, Chicago, Houston, San Francisco, Los Angeles, and a sub-office in San Diego.

Initial word from the INS was that asylum officers would "circuit ride" to locations outside a 300-mile radius of these cities, but that applicants within 300 miles would be expected to travel to the Asylum Office. Asylum applicants are also expected to provide their own translators and their right to counsel is at their own expense.

Lawyers and voluntary agencies have been pointing out to the INS the hardship the traveling requirement will be, and there appears to be

some flexibility on the issue. However, INS also is intent on keeping its costs down, which could place a greater burden on the shoulders of indigent applicants and resource-starved voluntary agencies.

Angie O'Gorman of the International Institute of St. Louis told Refugee Reports that one of her clients had to go for his interview by himself "because we couldn't afford to accompany him" and that 5 or 6 more clients with interviews pending are similarly vulnerable.

"We can't afford to pay for our clients' travel and a representative, let alone an interpreter," she said. This concern was echoed in conversations with service providers in many locations.

During the transition period from October to April, asylum adjudications that used to take place in St. Louis have been switched to Kansas City. In April, they will take place in Chicago.

For all this, O'Gorman is pessimistic that the asylum interviews will be any better than before. "The examiner had undergone the training for new asylum officers, but as far as I could see, the interview was no different from anything I had seen in St. Louis, the same preoccupation with dates, very formal and curt, an atmosphere tinged with intimidation."

O'Gorman said, "I had expected a warmer, more inviting atmosphere," since the new asylum regulations stress that the interviews will be nonadversarial. "Although the asylum officer is polite and professional, there is nothing that would make the applicant relax."

Niels Frenzen, an attorney with Public Counsel in Los Angeles County, made a study of the INS circuit riding approach for the American Immigration Lawyers Association. His study noted that Boston, Phoenix, New Orleans, Detroit, Cleveland, Dallas, Buffalo, and Harlingen were all within 300 miles of an asylum office, but that because of the high volume of applicants and considerable distances to travel, these cities would be greatly inconvenienced by the new procedures with the effect that residents of these cities would be discouraged from applying or applying with representation.

"I think they should have someone here [in Boston] permanently," said Nancy Kelly, acting directing attorney of the Harvard Law Clinic. "There's enough asylum work here to keep an asylum officer busy full time." She said that the largest number of affirmative applicants in Boston have not even been Salvadorans, who will not begin to have their cases adjudicated until after TPS expires. She said that her clients include Somalis, Ethiopians, Liberians, Iranians, and Afghans.

John Willshire Carrera, staff attorney of Cambridge and Somerville Legal Services, added that distance will hurt the rapport that has built up between attorneys and asylum adjudicators. "You need someone to talk to on documentation, work authorization, extensions. The system only works for us informally; if we have to go through regular procedures, things will get very screwed up, and we'll have a lot of problems."

Work Authorization Shannon Salinas, of the Tucson Ecumenical Council for Legal Assistance (TECLA) has already encountered problems now that asylum work is no longer conducted with the local INS office. Her caseload has been switched to Phoenix during the interim.

"Work permits have taken up to 94 days in some cases [the regulation says they must be provided within 60 days of filing the application], and the distance for interviews is two hours each way," said Salinas.

She said that the asylum officer in Phoenix has been unwilling to schedule interviews in blocks, which would enable her agency to consolidate clients to make travel and representation less expensive.

An INS source said that under the new system it is likely that asylum applications and work authorization will be mailed in. If an asylum interview can take place within 60 days, the work authorization question will be settled at the same time. For interviews that cannot be scheduled within 60 days, a determination whether the case is "manifestly unfounded" will be made on the basis of the paper record, and work authorization will be granted or denied on that basis.

The INS source said that the system will work more effectively and expeditiously if agencies do a better job in helping their clients fill out the I-589 asylum application forms. "We can work on the real facts and take up less valuable interview time on gathering basic biographical

data" if the agencies do a complete job on the forms.

What Will They Do Next? Complaints are also emanating from some of the designated cities themselves. Service providers in New York speak of the inconvenience of traveling to Newark, New Jersey, and Los Angeles agencies are protesting the selection of an INS office on the outskirts of town that is a three-hour round trip by car from the area of Los Angeles where most Central Americans are concentrated.

"What are they going to do next to make our work more difficult?" asked Rodezno. "We raised it with the INS district director, but he was inflexible, he said the decision was made, and he didn't want to talk about it any more."

Progress indeed has been made; unprecedented and constructive interaction has taken place between the INS and Central American service providers. But a decade of tension and distrust is not likely to dissipate overnight. There is general agreement from people within the INS as well as the voluntary agencies that it will take a year or more to assess the success of the new relationship.

Recent Developments

PROCESSING OUT OF SUDAN CUT OFF; REFUGEES AND SUDANESE FACING SEVERE FOOD SHORTAGES

The Gulf war has taken its toll on refugees in Sudan. Due to security concerns arising from the government of Sudan's sympathy for Iraq and growing anti-American sentiment in Sudan, the U.S. Embassy withdrew all personnel (including staff connected with refugee processing) from Khartoum in January. Staff of the International Rescue Committee (IRC), the operating agency for the U.S. Refugee Resettlement Office (USRRO), the office that carries out Joint Voluntary Agency (JVA) functions in Sudan, also pulled out on January 17. Most UNHCR staff were also evacuated.

Khartoum processes the largest number of refugees resettled to the United States from Africa. In FY 90, of 3,493 refugees admitted from the Africa region, 1,915 were out of Sudan. At the time that processing activities were suspended in January, an estimated 800 refugees in Sudan had been approved by the Immigration and Naturalization Service (INS) and were in the final stage of preparing for departure to the United States, and more than 5,900 cases--in both cases almost all Ethiopians--were being processed for interviews by the INS. According to IRC Overseas Program Coordinator Faye Richardson, some 600 of those already approved by the INS were expected to depart during the second quarter. The first 100 were scheduled to fly out of Khartoum on January 22, 1991, but their flight was cancelled. A spokesperson at the State Department's Bureau for Refugee Programs told Refugee Reports that it was too soon to know how the suspension would affect the annual program. "That will depend on when we can return staff to that location [Khartoum] and establish operations again," she said.

The USRRO representative evacuated from Khartoum, Pam Elizabeth, said, "We want to strongly emphasize that we are committed to resuming normal departures as soon as possible."

Concern Voiced That Africa Numbers May Be Reallocated The proposed ceiling for FY 91, 4,900, is the highest ceiling ever for the Africa region. Some of those who advocated for the increased ceiling for Africans are worried that if processing from Khartoum is shut down for too long--a likely scenario given that President Bush has said that the Gulf war may go on for months --Africa numbers will be transferred to other regions. U.S. Committee for Refugees (USCR) director Roger P. Winter, noting that there is great demand for additional numbers for other regions, urged the State Department to make every effort to use the allocated Africa numbers for Africans. In a letter to Ambassador Princeton Lyman, director of the Bureau for Refugee Programs(BRP), Winter said, "Reallocating numbers to other regions without first making a rigorous attempt to identify Africans in need of resettlement would be irresponsible and an abdication of the commitment made to offer a fairer level of resettlement opportunities to African refugees."

According to the UN High Commissioner

for Refugees (UNHCR) Washington representative, John McCallin, although Sudan hosts a significant number of African refugees needing resettlement, there are also many living in other countries. As of August 1990, McCallin said, UNHCR had identified more than 4,140 African refugees--apart from those living in Sudan--in need of third-country resettlement. The pool of eligible refugees should also increase, as BRP has added Liberians to the list of designated nationalities of special humanitarian concern for FY 91 (see Update).

Facing Famine In September 1990, a U.S. State Department famine early warning report said that Sudan was facing "a major, nationwide food shortage of 1984 proportions." As a result of severe drought in 1990 that affected every region of the country, 4.5 million people in Sudan will need food aid. Another 4.5 million southern Sudanese displaced by the civil war in Sudan are already mostly dependent on food aid, bringing the total in need of food aid to more than 9 million. Many of the self-settled Ethiopian refugees in Sudan, as well as those living in UNHCR-assisted agricultural settlements, are among those affected by the drought. UNHCR has expressed concern that many of them may seek to move into UNHCR's existing reception centers, where enough food is available for current populations, but may not be for large additional numbers.

The UN's World Food Program (WFP) estimates that Sudan will require 1.2 metric tons of food aid in 1991 to respond adequately to the need. However, it appears very unlikely that goal will be met because of the Sudanese government's repeated denials of the potential for widespread famine.

Last October, the leader of Sudan's ruling military junta, Lt. General Omar al-Bashir, said that Sudan was not suffering from famine and that foreign news media reports about a famine were aimed at distorting Sudan's image. Although the government has since acknowledged food shortages (albeit well below those identified by WFP), the UN-led famine relief effort, Operation Lifeline Sudan II (successor to 1989's OLS I, which helped save many lives) is essentially moribund, and the government continues to block other efforts aimed at assisting those in need (see Refugee Reports, Vol. XI, No. 7).

In October, the State Department reported that U.S. and other NGOs attempting to carry out relief work in Sudan face increased administrative difficulties and that the operations of the International Committee of the Red Cross "were virtually at a standstill." In December, 19,000 metric tons of food delivered to Sudan by WFP reportedly disappeared, although some--but not much--was said to have gone to civilians. As the new year began, prospects for averting widespread famine appeared grim. On December 19, the New York Times reported that according to a senior U.S. official in Khartoum, "It is all but certain that hundreds of thousands of people in the Sudan are going to die of starvation in 1991."

UN PREPARES FOR NEW WAVE OF REFUGEES IN THE GULF

At press time, an estimated 8,000 war refugees had fled Iraq and Kuwait and crossed into Jordan since January 16. Up to 5,000 more could be stranded on the Iraqi-Jordanian border, waiting for the Iraqi government's permission to leave. Some international relief groups believe the number of displaced persons could soon number in the hundreds of thousands and perhaps millions. On January 11, the United Nations issued an appeal for $38 million in start-up funds to provide emergency relief aid and transport for 400,000 evacuees who may enter the frontline states of Jordan, Iran, Syria, and Turkey.

"Depending on the severity and duration of any possible conflict," the UN statement said, "we could soon be witnessing a dramatic exodus exceeding even that of August-September 1990, when over a million foreign nationals crossed into neighboring countries, mainly Jordan, the vast majority being rapidly repatriated to their countries of origin. On this occasion, more of the evacuees may go to Iran, Syria, and Turkey, as well as to Jordan. Many of them may remain for longer periods as refugees."

Most of the first wave of new arrivals into Jordan after the outbreak of hostilities were Egyptian. After closing the border temporarily to all evacuees, the Iraqis appeared to reopen it for most groups, but to continue to block the exit of Egyptians. Up to 1,000 of the new arrivals entered Iran and fewer than 100 entered Syria and Turkey. The

governments of all four of the frontline nations have signalled their willingness to receive refugees from the war, although Jordan's commitment was equivocal.

Two days prior to the UN announcement of its January appeal and regional plan of action, a Jordanian refugee official told Reuters that the country's borders would be closed to all non-Jordanians "unless specific plans are worked out for their departure by their governments and international bodies." Jordan says it spent $55 million to feed and house more than 750,000 foreign workers who were displaced from Iraq and Kuwait last year, for which it has received only partial compensation from the international community.

International Donors Coming Forward On January 14, the government of Japan announced that it would cover the full amount of the initial $38 million UN appeal. Counting the Japanese contribution, worldwide donations totalled $61 million as of January 23, of which the United States has contributed $3 million.

The UN's regional humanitarian plan of action for the Gulf crisis estimates that the full cost of relief and repatriation assistance for 400,000 evacuees will come to $175 million. Of this total, about $90 million will be needed to provide 90 days of food, medicine, and shelter and $85 million will cover transportation and repatriation costs.

For planning purposes, the UN estimated that about 100,000 evacuees would be in each of the four frontline states at any given time, requiring the establishment of two border transit camps and four inland referral camps in each country. So far, about 10 camps have been built or are under construction in the region, six of which are in Jordan. The International Committee of the Red Cross (ICRC) is working in Syria to set up a border camp for 10,000 people and an inland camp to house 30,000 more. Turkey and Iran each have one camp for Gulf war evacuees.

The UN plan of action assumes that about 50 percent of the evacuees will require third-country repatriation assistance, which will be coordinated by the International Organization for Migration (IOM). Under the UN regional plan, the UN High Commissioner for Refugees (UNHCR) is responsible for camp management, the World Food Program (WFP) is responsible for food, and the World Health Organization (WHO) and UNICEF are responsible for health, water, nutrition, and sanitation in the camps. The UN Disaster Relief Organization (UNDRO) has been put in charge of overall coordination and chairs the UN Emergency Working Group on the Gulf crisis.

ICRC issued its own emergency appeal for $109 million on January 17 to establish or expand 10 emergency field hospitals with capacity totalling 1,000 beds; to provide "protection and tracing activities for possibly tens of thousands of prisoners of war and detainees and millions of displaced civilians;" and to establish camps for displaced persons within and outside areas of conflict.

Experts agree that it is impossible to make any accurate projections about the size or direction of potential new refugee flows, at least until a number of questions are answered. "First of all, how much damage has been done in Baghdad and other major population areas?" said Lionel Rosenblatt, president of Refugees International and a veteran of refugee crisis management as a State Department foreign service officer in Southeast Asia. "Second, how solid are the commitments of the receiving countries to let the refugees come in?"

"Lastly," Rosenblatt said, "What obstacles may be impeding the flow out?" He mentioned continued bombing, damaged roads, fuel shortages, border mines, and Iraqi restrictions on travel as possible barriers that would-be evacuees are facing.

Of all these obstacles, the last may prove to be the most formidable. On January 25, the New York Times reported that Iraq had closed its border with Jordan. Three days later, Iraq reopened its border, but ordered the thousands of refugees on the Jordanian-Iraqi border to return to Baghdad for exit visas. Given the deteriorating conditions in Baghdad, the new restrictions could lead to a "large-scale human tragedy if people do not get out," a diplomat told the Times.

Update

° Two groups of Hmong and other highland Lao asylum seekers in Thailand were removed from Chiang Kham camp and forced to return to

Laos in January, informed sources have told Refugee Reports. On January 18, a family of 13 screened-out Hmong was forced to get on a bus along with 91 voluntary repatriation cases returning to Laos. The group was tranferred to Chiang Khong by local Thai officials and then escorted across the Lao border to the town of Huai Say.

On January 21, 46 screened-out highlanders and 9 voluntary repatriation cases were moved from Chiang Kham to Nong Khai. The move "was not well accepted by the screened-out," the source said, "and there was some rough treatment, threatening with guns by Thai guards and people were literally pushed on the bus." The next day, the highland group was taken across the Mekong River, along with 48 lowland Lao who were voluntarily returning home.

"The problem is," the source said, "the Hmong had not been informed of their status (screened-out or in) and were given only a few hours notice regarding the movement to Laos, thereby causing much distress and even one who threatened to commit suicide at Chiang Kham."

Three officers with the UN High Commissioner for Refugees (UNHCR) accompanied the groups from Nong Khai and they were met on the Lao side by the UNHCR representative, Daniel Bellamy.

A Thai official reportedly has said that all of the 427 screened-out highlanders in Chiang Kham would be sent back to Laos by the end of February.

▫ With new arrivals entering at a rate of 500 per week, the population in the six border camps for Cambodian displaced persons in Thailand stood at 311,000 at the end of December, according to the Associated Press. More than 150,000 Cambodians were displaced from their homes by civil war, hunger, and disease in 1990, of whom about 30,000 fled west and entered border camps administered by the UN Border Relief Operation (UNBRO) but under the control of three resistance factions fighting to retake Cambodia.

Many of the refugees reaching Khmer Rouge-controlled camps "are just one step better than the people in concentration camps during World War II, and that's no exaggeration," an aid official told AP.

"They're coughing, they have open wounds. It seems like everything that could possibly go wrong with the human body has gone wrong," the official said.

Most of the new arrivals in Thailand have gone to Site 2, a sprawling camp of 180,000 people run by the noncommunist Khmer People's National Liberation Front (KPNLF). The KPNLF has been joined in a tripartite political and military alliance with the communist Khmer Rouge and noncommunist forces loyal to Prince Norodom Sihanouk in an effort to oust the Vietnamese-backed government from Phnom Penh.

Since Vietnam withdrew its last major contingent of troops from Cambodia in September 1989, the civil war has intensified. In an effort to secure newly "liberated" zones, the Khmer Rouge removed betweeen 60,000 and 100,000 people from satellite camps along the so-called "hidden border" and sent them farther into the Cambodian interior.

Aid officials speculate that some of the new arrivals in the UN-administered camps are in fact originally from these hidden border sites, indicating that there is substantial disease and hunger inside Cambodia.

At least 120,000 Cambodians in nine different provinces have been displaced internally. Khmer Rouge attacks forced nearly 40,000 people to flee their homes in Siem Riep, Preah Vihear, and Kompong Thom provinces, according to the Far Eastern Economic Review. The Phnom Penh government has relocated an additional 35,000 people from Kompong Speu province, following Khmer Rouge infiltration into the area.

Those who have not been displaced by the fighting may be on the move looking for food or medical care, or trying to evade the government draft. Because of conflict, floods, and droughts last year, Cambodia faces serious food shortages in 1991, aid officials say.

In a related development, on January 4, the Thai military announced that O'trao camp, which is controlled by Khmer Rouge guerrillas and holds an estimated 15,000 people, will be closed within three months, according to a report in the Bangkok Post. The Thai official would not say whether the refugees would be moved to an-

other camp in Thailand or into Cambodia.

Sources said that the military had been demanding the closure of O'trao ever since a grenade attack had injured two Thai security officers in early November. According to the Post report, if O'trao is in fact closed, UN officials are likely to try to move the refugees to another border camp or to Khao I Dang, the only refugee camp not controlled by any guerrilla faction.

° Thousands of Somali refugees have fled to neighboring countries and hundreds of thousands have become internally displaced since a new wave of fighting in Somalia's multi-pronged civil war brought chaos to the streets of Somalia's capital, Mogadishu, beginning late December. Some Ethiopian refugees who had been living in Somalia have also fled back to Ethiopia.

Hundreds, perhaps thousands, have been killed in Mogadishu. The bodies of many of the dead lie unburied in the streets. Looting is widespread, electricity and water have been cut off, and there is little food.

Thousands of Somalis jammed the airport trying to get on board chartered airplanes evacuating foreigners. On January 29, the rebels reportedly gained full control of the capital as president Siad Barre fled south.

° Liberian refugees can now be processed for resettlement in the United States without their cases having to be first approved by the State Department or referred to U.S. Embassies by UNHCR. The State Department advised embassies that, in consultation with INS, it had added Liberians to the list of "designated nationalities" eligible for such processing.

The State Department cable indicated that processing would be on a limited basis, authorizing embassy personnel only to register refugees who fall into priorities one, two, and three (compelling concern; former U.S. government employees; and reunification of close relatives of U.S. residents). Processing of Liberians overseas for admission as immigrants or with humanitarian parole status also continues.

The INS has extended until March 31 case-by-case voluntary departure for Liberians in the United States. Liberians who entered the United States prior to July 27, 1990 are required to apply individually for voluntary departure. The case-by-case nondeportation policy is extended, according to a December 21 cable to INS field offices, "pending a decision on the applicability of provisions of the Immigration Act of 1990 relating to temporary protected status" (TPS). The Act established TPS to protect nationals from countries experiencing continuing armed conflict and other dangerous conditions. The law specifies TPS for Salvadorans, but its conference report recommends TPS for Kuwaitis, Lebanese, and Liberians as well.

° The United States has recently initiated a limited refugee resettlement program for Iraqi Kurds in Turkey. On January 29, the Los Angeles Times reported that the admission of the Kurdish refugees to the United States was likely to be delayed due to the war. However, original plans had called for an estimated 300 families to be resettled between January and March, and another 200 families (1,200 persons) to be moved later in FY 91. Those to be considered will be cases submitted by the UNHCR or others with U.S. ties. There are currently an estimated 28,000 Iraqi Kurds in three refugee camps in southeastern Turkey.

° The Department of Health and Human Services has proposed removing HIV (the human immunodeficiency virus associated with AIDS) infection from the list of "dangerous, contagious diseases" for which immigrants, refugees, and visitors can be excluded from the United States (see Refugee Reports, Vol XI, No. 7).

The proposed change, published in the January 23 Federal Register, also removes syphilis, gonorrhea, and leprosy from the list. Tuberculosis would remain as the only medical condition that would bar entry. If made final, the new rule would take effect June 1. However, some advocates of the proposed change have expressed concern that opponents of lifting the ban on entry by persons infected with HIV may attempt to block the rule being made final.

° The Selective Service has begun sending notices to all male permanent resident aliens--including refugees and asylees--between the ages of 18 and 25 notifying them of the requirement to

register for the draft. The Selective Service has stated that it will notify the INS of any registrants who it discovers are undocumented aliens, according to the January 7 issue of Interpreter Releases.

° On January 8, UN Secretary General Javier Perez de Cuellar named Ilter Turkmen to be the new Commissioner-General of the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Turkmen, a career Turkish diplomat, will succeed Giorgio Giacomelli. UNRWA assists 2.4 million Palestinian refugees in the Israeli-occupied territories, Lebanon, Syria, and Jordan.

° Monsignor Nicholas DiMarzio, executive director of Migration and Refugee Services/U.S. Catholic Conference (MRS/USCC) for six years, has resigned that position to serve as Vicar for Human Services of the Archdiocese of Newark. Reverend Richard Ryscavage, S.J., who had been serving as MRS/USCC deputy director for policy, has been named as Monsignor DiMarzio's successor.

Reader Exchange

The U.S. Embassy in Bangkok has issued a warning about fraudulent information circulating in the Cambodian border camps concerning opportunities for U.S. resettlement. According to the September 5 announcement, flyers promising resettlement in the U.S. are being sold in the Thai-Cambodian camps. These flyers, which are produced by an organization calling itself "Immigration Assistance" in Arlington, Virgina, make "false claims" both about immigration eligibility for Cambodians and about the capacity of the private organization to assist in U.S. resettlement, the Embassy said.

According to what the Embassy called an "informal" translation of the flyer, which was written in Khmer, "Immigration Assistance" promises "You can sponsor your family even if you are not an American citizen yet" and "You can sponsor your husband, wife, children, parents or any distant relative...regardless of location." The whole process takes only 3 to 5 months, the flyer says, but "This special program is very short...so please connect with our office."

"There is absolutely no truth to the claim that the..."Immigration Assistance" office in the U.S. can assist in the U.S. resettlement of Khmer who do not have approved immigrant visa petitions or parole requests on file with the U.S. Embassy," the announcement said. "There is no new special program for Khmer."

"Information on who can file immigration visa petitions is available at local INS offices throughout the United States," the Embassy statement said. "U.S. relatives should be advised to ask for Form I-130 and read the instructions carefully."

° Officer Sunny Ma Lov, the only Cambodian on the Dallas police force, was killed by a speeding car on November 11, 1990 while he was on duty, according to a report in Community Focus, a quarterly publication of the Cambodian Network Development Project. "Cambodians call America heaven because they have escaped death, but this is disappointing," said Youk Chhang, a community outreach worker in Dallas.

Officer Lov is survived by his wife and two young daughters. Donations to his family can be sent to the Sunny Lov Memorial Fund, c/o Bank of the Southwest, P.O. Box 210099, Dallas, TX 75211.

[Editor's Note: We have received a letter from Tom Clark, Coordinator of the Inter-Church Committee for Refugees in Toronto, Canada, commenting on a Refugee Reports article on Canadian asylum procedures. Excerpts from that letter are printed below.]

Dear Editor: In the article "Canadian Asylum Rates at 75%..." (Vol. XI, No. 10) you seem blind to the positive aspects of the procedure in law in the United States and reluctant to accept negative features of the Canadian procedure...

Canadian voluntary agencies have urged governments for 15 years to put refugee protection in law. They want universal access to an oral hearing before independent and impartial decision makers and an appeal on the merits before forced return of a refugee claimant to another country. It shocks many Canadians to learn

that the USA has in law the refugee protection they have fought for. US law provides universal access to a full hearing and provides a full appeal before deportation...

The detailed Canadian statute does not guarantee a full hearing before forced return. The crucial first screening hearing is presided over by an immigration adjudicator and permits a number of classes of persons to be excluded.... There is no meaningful appeal provided in the law before forced return from the land border, or before forced return after a screening hearing, or before forced return after a Refugee Board hearing...

We have learned from you that the protection in law from wrongful deportation which you have and which we struggle for is not enough. The U.S. process fails to protect in practice for several reasons which are important as warnings. The Canadian process has positive features despite its abysmal failure to protect...

Canada's law provides a de-facto asylum process while purporting to be a law to protect refugees.... Generous asylum granting reduces the need to examine persons under the more stringent and formal "fair trial" provisions required to protect refugees from wrongful deportation. For us, the asylum granting hides some of the failures of the law to protect refugees...

In measuring the "success" of the Canadian process, care with statistics is needed because the widely published Refugee Board figures apply only to those asylum seekers who reach the jurisdiction of the Refugee Board at the first screening hearing. Immigration department statistics for the overall process show over 50,000 people arrived as of October 31, 1990 since the process began in January 1989; almost one half of them came via the USA. The Refugee Board had made about 10,000 full decisions and it had recognized a little over 7,000 refugees. About 17,000 were waiting to have the first screening hearing for an average 7 months without the right to work. The rest were somewhere inthe process.

"Streamlining" procedures, which your article finds attractive, can be a form of discrimination in which groups of persons are not given equal treatment before the law in violation of the human rights principles for a fair trial. It is difficult to see all this as a basis for awarding Canada 75% success...

To get consistent good law and practice in both our countries requires at least your good protection in law and our 1990 asylum practice plus other key elements including: an independent interpretation of the Convention refugee definition; independent documentation; independent training; independent and competent decision makers; and competent counsel and translator.

Resources

NEW BOOKS RECORD REFUGEE VOICES FROM SOUTHEAST ASIA

Asked to describe his experiences as a Cambodian refugee, Len Kath at first says simply, "I survived." But he goes on, "My leaving Cambodia I often think was a miracle granted to me. Sometimes I think it was a curse."

Ambivalence is a common theme in Voices from Southeast Asia: The Refugee Experience in the United States, by John Tenhula, which records the voices and views of more than 75 refugees from Cambodia, Laos, and Vietnam now living in the United States. There is the ambivalence of the first asylum countries who have let many refugees reach safe haven but have pushed many others back. There is the ambivalence of the resettlement countries, particularly the United States, who have opened their doors to more than one million newcomers from Indochina but worry loudly about their limits.

And there is, most of all, the ambivalence of the refugee--relieved to be alive but guilt-ridden for surviving when so many perished, grateful for the chance at a new life but staggered by the myriad changes to be faced. Len Kath saw his wife and children blown up by mines less than one mile from the Thai border. "I made it to the border and waited with the others for the police to let us enter. I will never accept the decision to leave my wife and children there. Can you imagine what my life is now?"

"All too often," Tenhula writes in his introduction, "Americans want to see immigrants and refugees as part of a heroic folk tale in which they

arrive penniless on our shores and in a very short time succeed beyond their and our wildest expectations. It is a good story, but in truth the happy ending is attained by only a few."

One of the few would be Nguyen Ngoc Linh, a refugee from Vietnam who is now a successful businessman in Houston, Texas. In addition to owning a string of fast-food shops which gross more than $2 million per year, Linh publishes a Vietnamese-language newspaper and runs a youth employment agency.

"I believe in work first and then learn English," Linh says. "Do any work, but work, that's what is important. Self-pride. Picking up paper on the street, I don't care what it is. It's pride. Sure, I know there is shock coming here. You tell a Vietnamese to take out the trash and you will see the look of total disbelief, total! So they learn, we all learn."

The successes, usually, are more modest ones. Vern Saechao, a Laotian refugee working at a K-Mart in Youngstown, Ohio, speaks with pride of his well adjusted sons who like baseball and sports. His wife works at the same department store. "Every Sunday we take a picnic to Mill Creek Park. After everything that has happened to us, it is a peaceful time.... Ohio is not too bad."

In compiling this primarily oral history, Tenhula encouraged interviewees to put their thoughts on paper as well. Some wrote poetry. A fifteen year old Cambodian girl in Memphis, Tennessee offered this:

> Biology and math make me feel good.
> I hold them close like I would my mother
> when I was a young girl.
> Too much disaster is found in current events,
> I keep a distance--like the black plague is
> near or an ugly boy.
> I am sad to hear of the journey to America,
> but glad that I am the future.

Voices, published by Holmes & Meier, is the first volume of its Ellis Island Series, which will examine various aspects of migration, resettlement, and acculturation. For more information, write to Holmes & Meier Publishers, Inc., 30 Irving Place, New York, NY 10003.

Student Anthology Marks Passages Katsuyo K. Howard, coordinator of Southeast Asian Student Services at California State University in Fresno, has compiled an anthology of personal histories written primarily by CSU, Fresno students. The short vignettes by 58 Cambodian, Laotian, and Vietnamese refugees--all in their twenties--are grouped into four sections: Our Unforgettable Motherland; Children, We Must Leave!; Living in Two Worlds; and Moving On.

The refugee's nostalgia for home, the terror of flight, and the confusion of life in a new country seem all the more poignant when seen through these young eyes.

"Sometimes I want to step back to the past," writes Tri Quang Le. "I want to walk on the shore and watch the sunrise on the beach. I want to sleep in the thatched hut in the back field and listen to the sound of crickets. I cannot do these things anymore."

Lona Tiv was only nine years old when he and his younger sister left the Cambodian town of Siem Riep in January 1979 and walked more than 100 miles to the Thai border, hoping to find their father in a refugee camp. Their mother and 57 other relatives had been killed by the Khmer Rouge. "As we got closer and closer to Thailand, I saw a lady walking away from the group toward the thick bushes. Suddenly, a very loud sound with fire and smoke came out from the bushes. I believe she stepped on a land mine. Her body scattered all over the place.... The smell was very bad, a disturbing greasy, burning smell."

Lou Saephan writes about life in America, "Joy is being with your family and not having to worry about the future, It also means human beings are not killing one another...We are not hungry anymore. My parents have jobs now and at least that's something to start with. So be thankful for what you have. Joy doesn't come easily in another country."

Passages: An Anthology of the Southeast Asian Refugee Experience is available for $24.95 by contacting Katsuyo Howard, Coordinator, Southeast Asian Student Services, CSU, Fresno, Fresno, CA 93740-0056. (209) 278-2782.

SOUTHEAST ASIAN REFUGEES:
ESTIMATED CUMULATIVE STATE POPULATIONS a/
INCLUDING ENTRIES FROM 1975 THROUGH 9/30/90

STATE OF RESIDENCE	ESTIMATED TOTAL	STATE OF RESIDENCE	ESTIMATED TOTAL	STATE OF RESIDENCE	ESTIMATED TOTAL
ALABAMA	3,500	LOUISIANA	15,800	OKLAHOMA	9,600
ALASKA	100	MAINE	1,800	OREGON	21,200
ARIZONA	8,100	MARYLAND	11,200	PENNSYLVANIA	30,400
ARKANSAS	3,300	MASSACHUSETTS	30,100	RHODE ISLAND	7,800
CALIFORNIA	378,500	MICHIGAN	13,000	SOUTH CAROLINA	2,600
COLORADO	13,000	MINNESOTA	34,900	SOUTH DAKOTA	1,100
CONNECTICUT	8,600	MISSISSIPPI	1,900	TENNESSEE	6,900
DELAWARE	300	MISSOURI	8,800	TEXAS	71,800
DISTRICT OF COL.	2,100	MONTANA	1,000	UTAH	9,600
FLORIDA	16,600	NEBRASKA	3,000	VERMONT	700
GEORGIA	12,700	NEVADA	2,600	VIRGINIA	24,300
HAWAII	8,200	NEW HAMPSHIRE	1,000	WASHINGTON	44,900
IDAHO	1,900	NEW JERSEY	9,000	WEST VIRGINIA	400
ILLINOIS	30,000	NEW MEXICO	2,400	WISCONSIN	16,300
INDIANA	4,500	NEW YORK	34,300	WYOMING	200
IOWA	10,700	NORTH CAROLINA	7,400	GUAM	300
KANSAS	11,300	NORTH DAKOTA	1,000	OTHER TERRIT.	b/
KENTUCKY	3,400	OHIO	13,000	**TOTAL**	**957,100**

NOTE: New adjustments for secondary migration were incorporated into these estimates as of 9/30/90.
a/Adjusted for secondary migration through 9/30/89, rounded to the nearest hundred. Not adjusted for births and deaths in the U.S. These figures do not include Amerasian immigrants.
b/Fewer than 100.

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